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Evander Frank Kane

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re

EVANDER FRANK KANE,

Debtor.

Case No. 21-50028-SLJ
Chapter 7

**APPELLANT'S STATEMENT OF
ISSUES TO BE PRESENTED AND
DESIGNATION OF RECORD ON
APPEAL¹**

Pursuant to Bankruptcy Rule 8009, Evander Frank Kane ("Kane"), the debtor in the above-captioned Chapter 7 bankruptcy case, submits this *Appellant's Statement of Issues to be Presented and Designation of Record on Appeal*. Zions Bancorporation, N.A. is referred to as "Zions."

On July 9, 2021, the Bankruptcy Court entered its *Order on Zions Bancorporation's Objection to Debtor's Homestead Exemption* (the "Order"). ECF 178. The Order found that Kane's exemption in real property located at 2301 Richland Avenue, San Jose, CA 95125 (the "San Jose Property") was limited to \$170,350 by § 522(p).² Kane timely appealed the Order on July 23, 2021. ECF 182.

¹ Unless specified otherwise, all chapter and code references are to the Bankruptcy Code, 11 U.S.C. §§ 101–1532. "Bankruptcy Rule" references are to the Federal Rules of Bankruptcy Procedure and "B.L.R." references are to the Bankruptcy Local Rules for the Northern District of California. "ECF" references are to the docket in the above-captioned proceeding.

² The Order also found that the Debtor's exemption was not barred by § 522(o).

I. APPELLANT'S STATEMENT OF ISSUES TO BE PRESENTED

1. Did the Bankruptcy Court err in considering Zions' objection to Kane's homestead exemption even though it was not personally served on Kane within the deadline set by Bankruptcy Rule 4003?

2. Did the Bankruptcy Court err in its determination that Kane's exemption in the San Jose Property was limited to \$170,350 by § 522(p)?

II. APPELLANT'S DESIGNATION OF RECORD ON APPEAL

Kane designates the items listed below for inclusion in the record on appeal. Each record is intended to include all related exhibits and attachments (*e.g.*, ECF 74 includes attachments filed at ECF 74-1 and -2). Kane reserves the right to amend and/or supplement this designation as and when appropriate.

No.	Date	ECF	Description/Title
1	1/9/2021	1	Chapter 7 Voluntary Petition
2	1/31/2021	17	Amended Schedules A/B
3	1/31/2021	18	Amended Schedules D and E/F
4	1/31/2021	19	Amended Statement of Financial Affairs
5	2/19/2021	30	Amended Schedules A/B, J
6	2/26/2021	37	Amended Schedules A/B, C
7	3/25/2021	74	Zions' Objection to Homestead Exemption
8	3/25/2021	75	Notice of Hearing
9	3/29/2021	82	Joinder by Centennial Bank
10	3/29/2021	85	Joinder by Professional Bank
11	3/29/2021	86	Joinder by Professional Bank
12	3/30/2021	89	Joinder by South River Capital, LLC
13	4/21/2021	103	First Amended Joinder by Centennial Bank

14	4/27/2021	106	Kane's Response to Zions' Objection
15	4/28/2021	109	Zions' Motion to Continue Hearing
16	4/29/2021	110	Order Granting Zions' Motion to Continue Hearing
17	4/29/2021	111	Supplemental Certificate of Service
18	5/13/2021	132	Second Amended Joinder by Centennial Bank
19	5/26/2021	146	Kane's Opposition to Zions' Objection
20	5/26/2021	147	Kane's Supporting Declaration
21	6/2/2021	153	Zions' Reply
22	6/2/2021	154	Zions' Evidentiary Objections
23	6/9/2021		Docket Text: Hearing Held (related document(s): 74 Objection to Homestead Exemption filed by Zions Bancorporation, N.A.) Stephen Finestone appearing on behalf of the Debtor, Michael Fletcher appearing on behalf of Zions Bancorporation, Gregg Kleiner appearing on behalf of the Ch 7 Trustee, Stephen Oppewall appearing on behalf of Professional Bank, Peter Califano appearing for Centennial Bank. Matter is taken under submission. (al) (Entered: 06/09/2021)
24	6/9/2021	163	Transcript Order Form for Hearing Held 6/9/2021
25	6/18/2021	168	Transcript of Hearing Held 6/9/2021
26	7/9/2021	178	Order on Zions' Objection to Homestead Exemption
27	7/23/2021	182	Notice of Appeal and Statement of Election

III.STATEMENT REGARDING TRANSCRIPT OF PROCEEDINGS

A transcript of the hearing held on June 9, 2021, appears on the docket at ECF 168.

Dated August 6, 2021

FINESTONE HAYES LLP

/s/ Stephen D. Finestone

Stephen D. Finestone

Attorneys for Debtor, Evander Frank Kane